



ARIZONA DEPARTMENT OF ECONOMIC SECURITY

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Governor

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Director

November 13, 2006

WIA Guidance Letter #17-06

Subject: WIA Title IB Fiscal Management: Debt Collection, Audit Resolution, and Allowable Costs

References: P.L. 105-220 Sections 128, 133, and 184; 20 CFR Part 652, Subpart D,E and G; 20 CFR Part 667 Subparts D – H, 29 CFR Parts 95, 96, 97, and 99; OMB Circular A-21, OMB Circular A-87, OMB Circular A-122, OMB Circular A-133; Federal Acquisition Regulation 97-03 Part 31; DOL One-Stop Comprehensive Financial Management Technical Assistance Guide dated July 2002; DES Policies 1-47-01 and 1-47-08; and Workforce Investment Act Guidance Letters #04-06, #09-06 and #18-06.

Purpose: The Employment Administration (EA) Workforce Investment Act (WIA) Section holds its direct recipients liable for all expenditures of funds. This policy provides the Local Workforce Investment Areas (LWIAs), sub-grantees, sub-recipients and/or service providers with guidance on the process for resolving questioned costs or findings on non-compliance with statutes, regulations and requirements of WIA Title IB grant funds and the Audit Resolution process.

Background: The U.S. Department of Labor (DOL) requires that states establish fiscal controls. Among the required controls specified in Title 20 CFR Section 667.500(a)(2) is the process for collecting debts. Title 20 CFR 667.410(a) states it is the responsibility of the LWIA, sub-grantee, sub-recipient and/or service provider to conduct regular oversight and monitoring of its WIA activities to determine whether expenditures have been made against the cost categories and within the cost limitations specified in WIA laws and regulations. 20 CFR 667.705 states:

- (a) the recipient is responsible for all funds under its grant(s);
- (b) the political jurisdiction(s) of the chief elected official(s) in a local workforce investment area is liable for any misuse of the WIA grant funds allocated to the local area under WIA sections 128 and 133, unless the chief elected official(s) reaches an agreement with the Governor to bear such liability.

Action Required: This guidance letter shall be distributed to all appropriate staff and to individuals responsible for WIA Title IB grant funds: LWIAs, sub-grantees, sub-recipients and/or service providers who participate in financial and administrative processes. For questions or assistance related to this policy, please contact Roderic (Rod) Webb at (602) 542-3957 or via e-mail at RLWebb@azdes.gov.

This policy is subject to change. All WIA Guidance Letters are posted on the WIA website at <http://www.de.state.az.us/wia/infomemos.asp>.

Sincerely,

A handwritten signature in black ink, appearing to read "Lela Alston". The signature is fluid and cursive, with the first name "Lela" and last name "Alston" clearly distinguishable.

Lela Alston, Manager
EA/WIA Section

Attachment A: WIA Title IB Fiscal Management Policy

Attachment B: Cost Items Matrix

WIA Title IB Fiscal Management Policy

1. Definitions

- a) **Allowable Cost** is a cost that meets all requirements of a funding source and is not made in violation of any federal or state law, regulation, policy or other requirement.
- b) **Disallowed Costs** are questioned costs that have been formally determined by EA/WIA Section staff to be in violation of the statutes, regulations, policies or other requirements governing the use of WIA Title IB funds.
- c) **Final Determination** is the formal decision of EA/WIA Section Manager concerning the resolution of a finding of non-compliance or the allowability of questioned costs.
- d) **Finding of Non-compliance** is a matter identified by or brought to the attention of EA/WIA Section staff concerning an activity of a recipient of WIA funds that may be a violation of the statutes, regulations, policies or other requirements governing the use of WIA funds.
- e) **Grant** is all of the funds included in the contractual agreement between the EA/WIA Section and LWIAs, sub-grantees, sub-recipients and/or service providers who provide services to the public expending WIA Title 1B funds.
- f) **Initial Determination** is a preliminary decision by EA/WIA Section concerning the resolution of a finding of non-compliance or the allowability of questioned costs.
- g) **Questioned Costs** are costs that have been identified as possibly being in violation of one or more Federal, State, or Local laws, regulations, policies or other requirements.
- h) **Recipient** is any individual or organization that directly receives WIA Title IB funds.

2. Allowable Costs (Please see Attachment B for further clarification.)

The following principles must be used to determine allowable costs for WIA Title 1B funds:

- a) Any cost charged to a WIA Title IB grant must be necessary and reasonable for the proper and efficient performance and administration of the grant. LWIAs, sub-grantees, sub-recipients and/or service providers are required to exercise sound business practices and to comply with the appropriate OMB Circulars for charging costs.
- b) Costs must be clearly identifiable as benefiting the WIA Title IB program and not other programs or activities. In order to be allowable, a cost must be incurred specifically for the program being charged and treated consistently with like costs. If other programs are conducted in addition to the WIA Title IB program, allocation methods must be used to determine what share of costs should be charged to WIA Title IB funds.
- c) Costs must be allowable under Federal, State or local laws or regulations. Also see WIA Guidance Letters #09-06, Management of Equipment Purchased with WIA Funds and #18-06, Guidance on WIA Title IB Fiscal Requirements.
- d) Costs must be treated uniformly across program elements or from year to year.

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- e) WIA funds may not be used as a match or to meet matching funds requirements unless specifically authorized in the enabling legislation or the grant terms.
- f) Costs incurred must be supported by required source documentation such as time and attendance records, bills and invoices and cancelled checks. The LWIAs, sub-grantees, sub-recipients and/or service providers inability to produce such documentation is in itself supportable grounds for disallowing questioned costs.
- g) LWIAs, sub-grantees, sub-recipients and/or service providers may not charge a cost to the WIA grant that is unallowable per the WIA Title 1B laws and regulations or the cost limitations specified in the regulations and OMB Circulars.
- h) Costs must be determined in accordance with generally accepted accounting principles.

3. Requirements

EA/WIA Section staff may become aware of activities and any associated costs that may be violations of the requirements of WIA or other state and federal requirements. This may occur as a result of monitoring by WIA Section staff, monitoring by the federal grantor agency, complaints, investigations or other similar activities.

Any matters involving fraud or abuse will be resolved using WIA Guidance Letter #04-06, Fraud and Abuse Policy of the Workforce Investment Act.

When findings of non-compliance or questioned costs are identified through annual fiscal/programmatic reviews or otherwise in relation to WIA Title IB funds, the following procedures will be used for making determinations to resolve the matters of concern;

- a) Resolution of findings of non-compliance and questioned costs
 - i) When findings of non-compliance and/or questioned costs are identified, EA/WIA Section staff will send a notification letter to the recipient which will include the following:
 - (1) Reference to the findings and/or questioned costs;
 - (2) Reference to the statutory, regulatory or other requirements with which compliance is questioned;
 - (3) A description of the actions that might be required to resolve the findings of non-compliance or questioned costs;
 - (4) A request for the recipient to provide written comments on the findings, questioned costs, and required actions;
 - (5) A statement that the recipient's comments should be provided, in writing, within 20 business days of the date of the letter;
 - (6) A statement based on the recipient's response, that EA/WIA Section staff will issue a determination regarding the resolution of the findings or questioned costs;
 - (7) A statement that if the findings or questioned costs are not resolved, appropriate sanctions may be taken.

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- ii) If the recipient submits a written response within the 20 business day time period referenced in the notification letter, EA/WIA Section staff will assess the response. The assessment will:
 - (1) Compare the recipient's stated action with the required actions identified in the notification letter;
 - (2) Identify any differences between the two;
 - (3) Determine whether the recipient's stated action will resolve the matter or if further action is required of the recipient;
 - (4) If further action is required, determine if actions other than those originally specified are required or appropriate.
- iii) Following the assessment of the recipient's response, EA/WIA Section staff will prepare a determination letter regarding the monitoring findings and questioned costs.
 - (1) If the recipient's response has not fully addressed all of the findings or questioned costs, or if there are other actions that are required of the recipient, an Initial Determination will be issued.
 - (2) If the recipient's response has fully addressed all of the findings or questioned costs and no further action is required of the recipient, a Final Determination will be issued.
- iv) An Initial Determination will include the following:
 - (1) A reference to the notification letter;
 - (2) A summary of each finding of non-compliance or questioned cost; including identification of statutory, regulatory or other requirements with which the recipient is in violation;
 - (3) A summary of the recipient's response, if any, to each finding or questioned cost;
 - (4) An EA/WIA Section determination of the acceptability of the recipient's response as a resolution for each finding or questioned cost;
 - (5) Identification of all required actions the recipient must take to resolve any matters initially determined to be unresolved;
 - (6) A request that the recipient submit a formal, written response regarding all unresolved findings or questioned costs within 20 business days of the date of the Initial Determination;
 - (7) An offer to the recipient to informally resolve the matter through the submission of additional information or documentation, negotiation with EA/WIA Section staff;
 - (8) A reference to the issuance of a Final Determination;
 - (9) A reference to possible sanctions, if the findings or questioned costs are not resolved prior to the Final Determination.
- v) Immediately following the issuance of an Initial Determination and before the end of the 20 business days, EA/WIA Section staff may work with the recipient to informally resolve any outstanding findings of non-compliance or questioned costs. This will allow LWIAs, sub-grantees, sub-recipients and/or service providers to resolve the issue informally.

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The informal resolution may include the following:

- (1) EA/WIA Section staff offering to provide technical assistance to the recipient for resolving the findings of non-compliance or questioned costs;
 - (2) The recipient submitting new evidence, documentation or explanation in support of the resolution of findings or questioned costs;
 - (3) The negotiation of a Corrective Action Plan, which details who in the recipient's organization will take specific actions and specify a time frame for resolving the findings or questioned costs;
 - (4) The negotiation of repayment plans or alternative debt collection methods, if appropriate.
 - (5) If all issues are resolved informally, the Final Determination Letter may be issued in accordance with Section vii) below, outlining how the issues were resolved during the informal resolution process and the action taken to correct any noted findings or questioned costs.
- vi) Within 60 calendar days of the date of the Initial Determination, EA/WIA Section staff will review the results of any informal resolution activities and will make a final assessment regarding the status of findings of non-compliance and/or questioned costs. Based upon this assessment, the EA/WIA Section staff will develop a Final Determination on the findings or questioned costs.
- vii) The Final Determination will include the following:
- (1) A reference to the notification letter or the Initial Determination, if one was issued;
 - (2) A summary of each finding of non-compliance or questioned cost including identification of the statutory, regulatory or other requirement with which the recipient is in violation;
 - (3) A summary of the recipient's response, including the results of any informal resolution, to each finding or questioned cost;
 - (4) A description of the areas in which the recipient and EA/WIA Section staff disagrees regarding the findings or questioned costs;
 - (5) An EA/WIA Section final determination on whether each finding of non-compliance is resolved or unresolved, and whether each questioned cost is allowed or not allowed;
 - (6) A specification of any additional actions required, such as repayment of disallowed costs, for each unresolved finding and/or questioned cost;
 - (7) An identification of the specific sanctions that will be imposed upon the recipient as a result of unresolved findings or disallowed costs;
 - (8) A reference to the right of the recipient to appeal the final determination to the EA Program Administrator within 15 calendar days of the date of receipt of the Final Determination.
- viii) The Final Determination will be sent to the recipient via Certified Mail, Return Receipt Requested, to document the date upon which the recipient receives the document.
- ix) Repayment of Disallowed Costs
- (1) Repayment must be made within 30 calendar days of the receipt of the Final Determination;

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- (2) Repayment must be paid from sources other than state or federal grants, and the source of the repayment funds must be identified;
 - (3) Alternative repayment plans or debt collection methods may be negotiated if requested by the recipient within 30 calendar days of receipt of the Final Determination.
- b) Sanctions Resulting from Non-compliance
EA/WIA Section staff may impose one or more, but not be limited to, of the following sanctions as a result of issuing a Final Determination as described in this section of the policy:
 - i) Suspension of Grant Activities;
 - ii) Reduction in the Grant Amount;
 - iii) Termination of the Grant.
- c) Appeal of Final Determinations
Recipient may appeal a Final Determination to the EA Program Administrator.
 - i) The appeal must:
 - (1) Be provided in writing;
 - (2) Be received within 15 calendar days of the recipient's receipt of the Final Determination;
 - (3) Specify the factual basis by which the appeal is being made;
 - (4) Include appropriate documentation to support the claim;
 - (5) Specify the form of relief requested.
 - ii) The EA Program Administrator will:
 - (1) Issue a decision on the appeal in writing;
 - (2) Will provide the decision within 30 days of the receipt of the appeal or will provide a written notification to the appellant of an extension of the amount of time within which the decision will be provided.

4. Responsibilities

- a) In accordance with this policy, EA/WIA Section staff are responsible for:
 - i) Issuing notification letters pertaining to non-compliance or questioned costs;
 - ii) Issuing Initial Determinations;
 - iii) Assisting recipients with informal resolution activities;
 - iv) Issuing Final Determinations;
 - v) Determining any sanctions to impose for unresolved findings of non-compliance or disallowed costs.
- b) The EA Program Administrator is responsible for issuing a written decision on any appeal of a final determination or sanction imposed through this policy.
- c) Recipients of WIA funds are responsible for:
 - i) Providing a written response to any notification letter regarding findings of noncompliance or questioned costs;
 - ii) Conducting informal resolution activities in response to an Initial Determination;
 - iii) Undertaking any required actions identified in an Initial Determination;
 - iv) Complying with any sanctions imposed through a Final Determination;

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- v) Submitting an appeal of a Final Determination when sufficient basis exists for making such an appeal.

Every WIA recipient is required to repay Title IB funds from sources other than state or federal funds when a determination reveals that a mis-expenditure of funds was due to willful disregard of the requirements of the Federal grant, gross negligence, and/or failure to observe accepted standards of administration or a pattern of mis-expenditures.

A cost will be disallowed if the basis is a clear and unequivocal violation of federal or state law and regulations. Costs can also be disallowed based on a violation of Federal grant terms and conditions that include the regulations and the OMB Circulars governing administrative standards and cost principles.

5. Collection Procedures

- a) The EA/WIA Section will follow the Department of Economic Security, Office of Accounts Receivable and Collections (OARC) policy and procedures for debt collection. OARC will pursue collections of WIA Title IB debts when liability is determined to be at the LWIA, sub-grantee, sub-recipient and/or service provider level and no waiver will be sought from the U.S. DOL or the U.S. DOL has denied a request for waiver.
- b) OARC will issue to the LWIA a written notification which will include:
 - i) The amount of debt;
 - ii) The date debt will be considered delinquent;
 - iii) Whether or not interest will be charged on the debt, and at what rate of interest;
 - iv) A statement that a final decision by the EA/WIA Section is subject to review by the U.S. DOL.

6. Waivers of Liability

The Workforce Investment Act provides that an LWIA, sub-grantee, sub-recipient and/or service provider may request that the EA/WIA Section, Fiscal Manager waive the liability for a debt. A waiver will only be requested if:

- a) The mis-expenditures occurred at the sub-recipient level;
- b) The mis-expenditures were not the result of gross negligence, a willful disregard of the Act, Federal regulations and /or failure to follow accepted standards of administration;
- c) If the mis-expenditures were due to fraud, they must have been perpetrated against the grantee or the sub-grantee and the grantee/sub-grantee must have forcefully pursued investigation, prosecution and debt collection against the perpetrator;
- d) The debt associated with the mis-expenditures must have been established through the monitoring resolution process and the grantees' appeal process exhausted;
- e) The grantee formally requests the waiver and provides documentation to support its claim of compliance with these requirements.

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7. Substantial Violation of Workforce Investment Act

If, as a result of financial and compliance reviews or otherwise, the Governor or designee determines that there is a substantial violation of a specific provision of WIA Title IB and any associated, federal regulations and corrective action has not been taken, the Governor may:

- a) Issue a notice of intent to revoke approval of all or part of the Local Areas Two year plan affected; or
- b) Impose a reorganization plan, which may include:
 - i) Decertifying the local board involved;
 - ii) Prohibiting the use of eligible providers;
 - iii) Selecting an alternative entity to administer the program for the local area involved;
 - iv) Merging the local area into one or more other local areas; or
 - v) Making other such changes as the Secretary or Governor determines necessary to secure compliance.

Cost Item Matrix

The following guidance and table can be found in the One-Stop Comprehensive Financial Management Technical Assistance Guide, Chapter 11-4, Allowable Cost, Attachment 1.

NOTE: Some of the costs on this chart are allowable under the circulars and prohibited under WIA or other program-specific regulations. You should refer to the program-specific regulations if you have any questions on allowability of a particular cost. This chart is for reference only.

In addition, when reviewing the provisions related to selected items of cost in the OMB circulars, the cost principles applied in establishing the allowability of certain items of cost apply whether the cost is treated as a direct or indirect cost. Failure to address a particular item of cost is not intended to imply that it is unallowable. Rather, the determination of allowability in each case should be based on the treatment or principles provided for similar or related costs. Note also that, in some instances, different cost items may be similarly named, and there may be some overlap in the cost items treated by the different circulars. Again, this chart is for reference only.

Circulars Used:

- OMB Circular A-21 Cost Principles for Educational Institutions
- OMB Circular A-122 Cost Principles for Non-Profit Organizations
- OMB Circular A-87 Cost Principles for State, Local and Indian Tribal Governments
- OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations
- 48 CFR Part 31 Contract Cost Principles and Procedures

Key:

A = Allowable
 AP = Allowable with prior approval of either the Grant Officer or Governor
 AC = Allowable with conditions
 A/U = Some categories within the particular activity are allowable, while some are not
 U = Unallowable
 NT = Not treated in circular

	Cost Item	Circular A-21	Circular A-122	Circular A-87	48 CFR Part 31
1	Accounting systems	NT	NT	A	NT
2	Advertising and public relations	AC	AC/U	AC/U	AC
3	Advisory councils	NT	NT	A	NT
4	Alcoholic beverages	U	U	U	U
5	Alumni/ae activities	U	NT	NT	NT
6	Asset valuations resulting business combinations	NT	NT	NT	A
7	Audit services	See A-133	See A-133	A	NT
8	Automatic electronic data processing	NT	NT	AC	NT
9	Bad Debts	U	U	U	U
10	Bid and proposal costs	Item 65	Item 65	Item 65	Item 65

Cost Item Matrix

	Cost Item	Circular A-21	Circular A-122	Circular A-87	48 CFR Part 31
11	Bonding costs	NT	A	A	NT
12	Budgeting	NT	NT	A	NT
13	Civil defense costs	AC	NT	NT	A/U
14	Commencement and convocation costs	U	NT	NT	NT
15	Communication costs	A	A	A	NT
16	Compensation for personal services	A/U	A/U	A/U	A/U
17	Contingency provisions	U	U	U	U
18	Cost of money (see also item 40)	U	U	U	A/C
19	Deans of faculty and graduate schools	A	NT	NT	NT
20	Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringement	AC/U	AC/U	A/U	U
21	Deferred research and development costs	NT	NT	NT	AC/U
22	Depreciation and use	AC	AC	AC	AC
23	Disbursing service	NT	NT	A	NT
24	Donations and contributions	U	U	U	U
25	Economic planning costs	AC/U	AC/U	AC/U	NT/U
26	Employee morale, health and welfare costs and credits	A	A	A	U
27	Entertainment costs	U	U	U	U
28	Equipment and other capital	A/U	AP	AP	AP
29	Executive lobbying costs	U	U	U-See Item 42	U
30	Fines and penalties	U	U	U	U
31	Fund raising and investment management costs (see also item 40)	NT	NT	U	U
32	Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs (see also item 64)	NT	NT	A	A
33	General government expenses	NT	NT	U	NT
34	Goods/services for personal use	U	U	NT	NT
35	Goodwill	NT	NT	NT	U
36	Housing and personal living expenses	U	AC/U	NT	NT
37	Idle facilities and capacity	NT	AC/U	AC/U	AC/U
38	Independent research and development	NT	Reserved	NT	AC
39	Insurance and indemnification	AC	AC	AC	A
40	Interest, fund-raising and investment management costs	A/U	AU	A/U	U
41	Labor relations costs	AC	AC	NT	AC
42	Lobbying	U	U	U	U
43	Losses on other sponsored agreements/contracts	U	U	U	U
44	Maintenance and repair costs	A	A	A	A
45	Manufacturing and repair costs	NT	NT	NT	A
46	Manufacturing and product engineering costs	NT	NT	NT	A
47	Material costs	A	A	A	A
48	Meetings and conferences	NT	A	See Item 2	See Item 2

Cost Item Matrix

	Cost Item	Circular A-21	Circular A-122	Circular A-87	48 CFR Part 31
49	Memberships, subscriptions, and professional activity costs	A/U	A/U See also Item 2	A/U See also Item 2	NT
50	Motor pools	NT	NT	A	NT
51	Organization costs	NT	AP	NT	U
52	Other business expense	NT	NT	NT	A
53	Overtime, extra-pay shift, and multi-shift premiums	NT	AC	AC	See also Item 16
54	Page charges in professional journals	NT	A	NT	NT
55	Participant support costs	NT	A	NT	NT
56	Patent costs	A	A/U	NT	A/U
57	Plant protection costs	NT	NT	NT	A
58	Plant reconversion costs (See also item 68)	NT	NT	NT	U
59	Plant security costs	U	A	NT	NT
60	Pre-Agreement Costs (See also item 61)	U	NT	NT	NT
61	Pre-award costs	NT	AP	U (formula) AP	NT
62	Pre-contract costs	NT	NT	NT	AP
63	Professional services costs	A	A	A	A
64	Profits and losses on disposition of plant equipment/other capital assets	A	A	See Item 32	See Item 32
65	Proposal costs (See also item 10)	AC	Reserved	AC/AP	AP
66	Publication and printing costs	NT	A/U	A	NT
67	Rearrangement and alteration costs	A	A	A	NT
68	Reconversion costs (See also item 58)	A	A	A	NT
69	Recruiting costs	A/U	A/U	See Item 2	A
70	Relocations costs	AC	AC	NT	A/U
71	Rental costs of buildings & equipment	AC	AC	AC	AC
72	Royalties and other costs for use of patents	A	A	NT	A
73	Sabbatical leave costs	A	NT	NT	NT
74	Scholarships and student aid costs	A	NT	NT	NT
75	Selling and marketing	U	U	NT	A/U
76	Service and warranty costs	NT	NT	NT	A
77	Severance pay	AC	AC	AC	AC
78	Special tooling and special test equipment costs	NT	NT	NT	A
79	Specialized service facilities	AC	AC	NT	NT
80	Student activity costs	U	NT	NT	NT
81	Taxes	AC	AC	AC	AC
82	Termination costs	NT	AC	NT	A/U
83	Trade, business, technical and professional activity costs	AC	AC	AC (See also Item 49)	AC
84	Training and education costs	AC	AC	AC	AC
85	Transportation	AC	AC	NT	AC
86	Travel costs	AC	AC	AC	AC
87	Termination costs applicable (See also item 82)	AC	NT	NT	NT
88	Trustees	AC	AC	NT	NT
89	Under recovery of costs under Federal agreements	U	U	U	U